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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,087	03/07/2000	Valerie Anne Scott	SG 99428	1098

7590

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EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 03/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/520,087

Applicant(s)

SCOTT ET AL

Examiner

Yaritza Guadalupe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 – 7 and 14 are rejected under 35 U.S.C. 102 (b) as being anticipated by Toole (US 5,179,235).

Toole discloses an optical sighting device comprising an elongated housing (52), a lens (54, 56) located at one end of the light channel and having a partially reflective surface (inherently disclosed in order to emit a beam of light), a laser diode (222, 240, 248) for emitting light toward said reflective surface to produce a light spot by direct imaging of the laser diode on said reflecting surface and wherein the light spot is being superimposed on a target when sighting through the light the light channel (See Column 6, lines 20 – 28), a battery (202) for providing electric current, and an energizing circuit (74) for energizing the laser diode and operable to apply a pulsating electric current from said battery to said laser diode source (See Column 5, lines 10 – 15). Toole also discloses a control means provided for energizing the laser diode when a weapon (12) to which said optical sight is mounted is to be used and for automatically reducing energization of the laser diode in dependence of a predetermined

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condition and for adjusting the intensity of the light spot and a pulse width modulation of the laser diode source (See Column 5, lines 28 – 41). Toole discloses a manually operated switch (204) for energizing the laser diode. Toole discloses a control means that is considered to include a time – out circuit for deenergizing since clearly states that as the laser diode output will depend on the current which will be regulate with the driving circuit (See Column 5, lines 28 – 45). Toole discloses a pulsing circuit which in a broad sense is operable to generate pulses of electric current at a rate such that that the pulsing of the laser light is not apparent to the user.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235) in view of Madni et al. (US 5,974,940).

Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the motion sensor as stated in claim 8.

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With respect to claim 8 : Madni et al. discloses a rifle comprising motion sensors (21a, 21b) mounted on the rifle for detecting variation in horizontal or vertical movement when the rifle is in use. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a motion sensor as taught by Madni et al. in the device disclosed by Toole in order to decrease the aiming time and correct for displacement by providing a compensation mechanism to correct for involuntary movement from the user, i.e., movement created when breathing or target in movement.

5. Claim 9 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Toole (US 5,179,235) in view of Chanforan et al. (US 4,606,724).

Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the orientation sensor as stated in claim 9.

Regarding the orientation sensor : Chanforan et al. discloses an apparatus for firing including orientation sensors (See Column 13, lines 63 – 65) for detecting the orientation of the sensor. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an orientation sensor as taught by Chanforan et al. in the device disclosed by Toole et al. in order to define the orientation of the gun in the instant of firing in order to eliminate inaccuracy when shooting and prevent for accidents.

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6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235) in view of Tai et al. (US 5,483,362).

Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the ambient light sensor as stated in claim 10.

With respect to claim 10 : Tai et al. discloses a sight to be mounted on an arm that includes an ambient light sensor (50) mounted on the base. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an ambient light sensor as taught by Tai et al. in the device disclosed by Toole in order to help correct for brightness and to avoid excess of illumination when not needed that may result in the discharge of the power source.

7. Claims 11 - 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235) in view of Sliwa (US 6,301,815).

Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the sensor for detecting the presence of an eye as stated in claims 11 and 12.

Regarding claims 11 and 12 : Sliwa discloses a firearm device that includes “biometric sensors” (72) which are sensors for identification purposes, and proximity sensors which detects the proximity to the device. Either sensor, in a broad sense is considered to detect the presence of an eye or person and detecting the phenomenon of associated with a human being. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a proximity / biometric sensor as taught by Sliwa in the device disclosed by Toole in order to enhance the safety features by providing a personal recognition assembly that allows the use of the firearm just by the owner or identified person in memory.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235).

Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the wavelength of the laser diode as stated in claims 13.

With respect to claim 13 : Toole discloses the use of a laser diode (222, 240) for emitting a light beam but does not specify the particular value for the wavelength used for the light emitted from the source. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the wavelength of the light emitted having a value the range of 630 nm – 700 nm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the “optimum range” involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

9. Applicant's arguments with respect to claims 1 and 4 - 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676.

The examiner can normally be reached on 9:00 AM - 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Y. Guadalupe
March 15, 2002

DIEGO F.F. GUTIERREZ
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